HON'BLE SRI JUSTICE R.SUBHASH REDDY

W.P.No.26253 of 2005

04-04-2006

Between:

A.Rama Subba Rao
and others.

… Petitioners.

And

The Government of Andhra Pradesh
rep. by its Principal Secretary,
Health, Medical and Family Welfare (C1) Department,
Secretariat, Hyderabad and others.

… Respondents

HON'BLE SRI JUSTICE R.SUBHASH REDDY

W.P.No.26253 of 2005

ORDER:

Heard learned counsel for petitioners and learned standing counsel for Andhra Pradesh Vaidya Vidhana Parishad.

The petitioners are contractors who are supplying diet to the Community Health Centres, Narasapur, Palakol and Bhimavaram in West Godavari district. There was representation from the Hospital Diet Suppliers Welfare Association to the Government for the increase of diet charges to the in-patients from the existing rate of Rs.10/- to Rs.15/- per day for a general

patient and Rs.15/- to Rs.20/- per day for a T.B. patient in the Centres under the control of Andhra Pradesh Vaidya Vidhana Parishad, on par with teaching hospital subject to fulfilment of conditions and calorific value of the diet to be supplied. From time to time, the Government issued orders vide G.O.Ms.No.191 Medical, Health and Family Welfare (M1) Department dated

06-04-1999; G.O.Ms.No.508 Medical Health and Family Welfare (M1) Department dated 10-05-1999 and further clarification issued vide Government Memo No.17343/M1/99-3 dated 05-10-1999 and finally the Government vide G.O.Ms.No.255 Health, Medical and Family Welfare (C1) Department dated 20-06-2003 decided to enhance the diet charges from Rs.10/- to Rs.15/- per day for an in-patient in all the categories and from Rs.15/- to Rs.20/- for a patient in T.B. and Mental Hospitals under the control of

A.P. Vaidya Vidhana Parishad Hospitals on par with the Teaching Hospitals. It is the case of petitioners that though they are supplying the diet as per the quantity and calorific value as stipulated in

G.O.Ms.No.191 and 508, the respondents are not paying charges as per the revised rates in G.O.Ms.No.255 dated 20th June, 2003.

In the counter-affidavit filed by the second respondent-Commissioner of A.P. Vaidya Vidhana Parishad, it is stated in para-5 as follows:

> " It is submitted that the 1st petitioner has supplied 500 ml. of milk and 300 grm., of bread with one Egg. The 2nd petitioner has supplied the diet of 500 ml., of milk and 300 gms., of Bread with one Egg. The 3rd petitioner has supplied 500 ml of milk and 450 gms., of bread only. Hence, all the petitioners have not fulfilled the conditions prescribed in G.O.Ms.No.255, as such the petitioners have not right to ask for enhancement of the rates. Moreover, 1st and 3rd petitioners have entered into agreement in the year 1995 and 2000 and they agreed to supply the diet @ Rs.10/- till date. The 2nd petitioner entered oral agreement and agreed to supply the diet @ Rs.10/- till date."

Whereas, it is the case of petitioners that they have been supplying the diet as per the quantity notified from time to time by maintaining calorific value as specified. But, the second respondent stated in the counter-affidavit that the petitioners did not fulfil the conditions mentioned in G.O.Ms.No.255 dated

20-06-2003 for the purpose of claiming the enhanced rates. A reading of G.O.Ms.No.255 dated 20-06-2003 itself indicates that the rates are revised subject to fulfilment of conditions and calorific value as contemplated in G.O.Ms.Nos.191 dated

06-4-1999; 508 dated 10-5-1999 and Memo dated 05-10-1999. In view of the averments in the counter-affidavit that the petitioners have not complied with the conditions stipulated vide above GOs, no positive direction can be given for payment of enhanced rates to the

petitioners. But, at the same time, whether the quantity and the diet being supplied by the petitioners contains the calorific value as per the specified conditions or not is a matter to be examined by the respondents.

In view of the claim of petitioners that they are supplying the diet as per the specified quantity and calorific value, I dispose of the writ petition permitting the petitioner to make a representation in this regard before the Commissioner, Andhra Pradesh Vaidya Vidhana Parishad, giving particulars of the diet items and quantities being supplied by the petitioners and the calorific value thereof. Such representation shall be permitted within two weeks from the date of receipt of this order. If such representation is filed, the second respondent–Commissioner, Andhra Pradesh Vaidya Vidhana Parishad shall consider the same by giving opportunity to the petitioners and to record a finding whether the petitioners are supplying the diet and quantity with calorific value as per the conditions or not. On examination of representation, the second respondent shall pass the orders indicating whether the petitioners are entitled to enhanced rates in the light of G.O.Ms.No.255 dated 20-06-2003. In case it is found by the second respondent that the petitioners are entitled to the benefit of enhanced rate as per G.O.Ms.No.255, he shall take further steps for payment of the enhanced rates as expeditiously as possible, preferably within a period of two months thereafter.

Subject to above direction, the writ petition is disposed of. No order as to costs.

04-04-2006

Note:
Furnish copy in four days.

(b/o)
bsc